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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,753	10/22/2001	Mark Lucovsky	13768.198.3	4883

7590

01/12/2006

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EXAMINER

BETIT, JACOB F

ART UNIT

PAPER NUMBER

2164

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,753

Applicant(s)

LUCOVSKY ET AL.

Examiner

Jacob F. Betit

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 and 46-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 and 46-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 October 2005 has been entered.

Remarks

2. In response to communications filed on 24 October 2005, claims 1, 36, 38, 43, and 46 are amended per Applicants' request. Claims 1-44 and 46-50 are presently pending in the application.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1-44, 46-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "the particular data type" in line 5. There is insufficient antecedent basis for this limitation in the claim.

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Claims 2-35 are rejected for being dependent on rejected independent claim 1.

6. Claim 3 recites the limitation “the data structure may be identified”, in line 2. This limitation is indefinite because it is not clear if the data structure is identified or merely has the possibility of being identified. Limitations that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or a claim limitation. See MPEP 2106 II C.

7. Claim 12 recites the limitation “an act of accessing a request to insert the at least the portion of the data structure into the data structure”, in lines 4-5. It is not clear from reading the claim how a portion of a data structure can be inserted into itself.

8. Claim 12 recites the limitation “the at least the portion”. Since in the other claims “the portion” is used instead of “the at least the portion”, it is unclear from reading claim 12 what different meaning claim 12 is expected to take by reciting “the at least the portion”.

9. Claim 36 recites the limitation “the particular data type” in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 37 is rejected for dependent on rejected independent claim 36.

10. Claim 37 recites the limitation “the particular data type may be organized”, in line 4 and the limitation “the command method may be implemented” in line 9. These limitations are indefinite because it is not clear if the particular data type is organized or if the command method

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is implemented. Limitations that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or a claim limitation. See MPEP 2106 II C.

11. Claim 38 recites the limitation “the particular data type”, in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claims 39-42 are rejected for being dependent on rejected independent claim 38.

12. Claim 43 recites the limitation “the particular data type”, in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 44 is rejected for being dependent on rejected independent claim 43.

13. Claim 44 recites the limitation “the navigation module is capable of navigation through the second data structure using the set of rules” in line 6. This limitation is indefinite because it is not clear if the navigation module is ever used to navigate through the second data structure or if this navigation is merely not prohibited. Limitations that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or a claim limitation. See MPEP 2106 II C.

14. Claim 46 recites the limitation “the particular data type” in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claims 47-50 are rejected for dependent on rejected independent claim 46.

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Allowable Subject Matter

15. Claims 1, 36, 38, 43, and 46 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

16. Claims 2-35, 37, 39-42, 44, 47-50 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments


17. Applicant's arguments with respect to claim 1-44, 46-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. Betit whose telephone number is (571) 272-4075. The examiner can normally be reached on Monday through Friday 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

jfb
7 Jan 2006


SAM RIMELL
PRIMARY EXAMINER